

## PART 28—INTERNATIONAL BANKING ACTIVITIES

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AUTHORITY: 12 U.S.C. 1 *et seq.*, 24(Seventh), 93a, 161, 602, 1818, 3101 *et seq.*, and 3901 *et seq.*

SOURCE: 61 FR 19532, May 2, 1996, unless otherwise noted.

### Subpart A—Foreign Operations of National Banks

#### § 28.1 Authority, purpose, and scope.

(a) *Authority.* This subpart is issued pursuant to 12 U.S.C. 1 *et seq.*, 24(Seventh), 93a, and 602.

(b) *Purpose.* This subpart sets forth filing requirements for national banks that engage in international operations and clarifies permissible foreign activities of national banks.

(c) *Scope.* This subpart applies to any national bank that engages in international operations through a foreign branch, or acquires an interest in an Edge corporation, Agreement corporation, foreign bank, or certain other foreign organizations.

#### § 28.2 Definitions.

For purposes of this subpart:

(a) *Agreement corporation* means a corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System (FRB) under section 25 of the Federal Reserve Act (FRA), 12 U.S.C. 601 through 604a.

(b) *Edge corporation* means a corporation that is organized under section 25A of the FRA, 12 U.S.C. 611 through 631.

(c) *Foreign bank* means an organization that:

(1) Is organized under the laws of a foreign country;

(2) Engages in the business of banking;

(3) Is recognized as a bank by the bank supervisory or monetary authority of the country of its organization or principal banking operations;

(4) Receives deposits to a substantial extent in the regular course of its business; and

(5) Has the power to accept demand deposits.

(d) *Foreign branch* means an office of a national bank (other than a representative office) that is located outside the United States at which banking or financing business is conducted.

(e) *Foreign country* means one or more foreign nations, and includes the overseas territories, dependencies, and insular possessions of those nations and of the United States, and the Commonwealth of Puerto Rico.

[61 FR 19532, May 2, 1996, as amended at 61 FR 60387, Nov. 27, 1996]

#### § 28.3 Filing requirements for foreign operations of a national bank.

(a) *Notice requirement.* A national bank shall notify the OCC when it:



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(1) Files an application, notice, or report with the FRB to:

(i) Establish or open a foreign branch;

(ii) Acquire or divest of an interest in, or close, an Edge corporation, Agreement corporation, foreign bank, or other foreign organization; or

(2) Opens a foreign branch, and no application or notice is required by the FRB for such transaction.

(b) *Other applications and notices accepted.* In lieu of a notice under paragraph (a)(1) of this section, the OCC may accept a copy of an application, notice, or report submitted to another Federal agency that covers the proposed action and contains substantially the same information required by the OCC.

(c) *Additional information.* A national bank shall furnish the OCC with any additional information the OCC may require in connection with the national bank's foreign operations.

[61 FR 19532, May 2, 1996, as amended at 68 FR 70699, Dec. 19, 2003]

### § 28.4 Permissible activities.

(a) *General.* Subject to the applicable approval process, if any, a national bank may engage in any activity in a foreign country that is:

(1) Permissible for a national bank in the United States; and

(2) Usual in connection with the business of banking in the country where it transacts business.

(b) *Additional activities.* In addition to its general banking powers, a national bank may engage in any activity in a foreign country that is permissible under the FRB's Regulation K, 12 CFR part 211.

(c) *Foreign operations guarantees.* A national bank may guarantee the deposits and other liabilities of its Edge corporations and Agreement corporations and of its corporate instrumentalities in foreign countries.

### § 28.5 Filing of notice.

(a) *Where to file.* A national bank shall file any notice or submission required under this subpart with the appropriate supervisory office of the OCC.

(b) *Availability of forms.* Individual forms and instructions for filings are

available from the appropriate supervisory office of the OCC.

[61 FR 19532, May 2, 1996, as amended at 68 FR 70699, Dec. 19, 2003]

## Subpart B—Federal Branches and Agencies of Foreign Banks

### § 28.10 Authority, purpose, and scope.

(a) *Authority.* This subpart is issued pursuant to the authority in the International Banking Act of 1978 (IBA), 12 U.S.C. 3101 *et seq.*, and 12 U.S.C. 93a.

(b) *Purpose—Purpose and scope.* This subpart implements the IBA pertaining to the licensing, supervision, and operations of Federal branches and agencies in the United States. For corporate procedures pertaining to Federal branches and agencies, refer to 12 CFR part 5.

(c) *Scope.* This subpart applies to all Federal branches and agencies of foreign banks. Nothing in the OCC's rules relieves a Federal branch or agency from complying with requirements that are imposed by the FRB under Regulation K (12 CFR part 211) or otherwise imposed in accordance with applicable law.

[61 FR 19532, May 2, 1996, as amended at 61 FR 60387, Nov. 27, 1996; 68 FR 70699, Dec. 19, 2003]

### § 28.11 Definitions.

For purposes of this subpart:

(a) *Affiliate* means any entity that controls, is controlled by, or is under common control with another entity.

(b) *Agreement corporation* means a corporation having an agreement or undertaking with the FRB under section 25 of the FRA, 12 U.S.C. 601 through 604a.

(c) *Capital equivalency deposit* means a deposit by a Federal branch or agency in a member bank as described in section 4 of the IBA, 12 U.S.C. 3102(g).

(d) *Control.* An entity controls another entity if the entity directly or indirectly controls or has the power to vote 25 percent or more of any class of voting securities of the other entity or controls in any manner the election of a majority of the directors or trustees of the other entity.

(e) *Edge corporation* means a corporation that is organized under section